

TPANI 2010/1 - Explanatory statement -



A New Tax System (Goods and Services Tax) Third Party Adjustment Note Information Requirements Determination (No. 1) 2010

Explanatory Statement

General Outline of Instrument

1. This instrument is made under subsection 134-20(1)(d) of the *A New Tax System (Goods and Services Tax) Act 1999*.
2. This instrument describes the information that must be included in a Third Party Adjustment Note.
3. The instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

4. The instrument commences on 1 July 2010

What is this instrument about?

5. The purpose of this instrument is to inform taxpayers of the information they need to include in a third party adjustment note. This allows taxpayers to generate and make use of third party adjustment notes in order to properly account for their third party payment adjustments.

The effect of the instrument:

6. The instrument sets out the information that the Commissioner requires for a third party adjustment note. The requirements provide for appropriate documentation to be created, which will be held by payers and payees to substantiate their third party adjustments.

Background:

7. Division 134 of the *A New Tax System (Goods and Services Tax) Act 1999* ensures that the appropriate amount of goods and services tax (GST) is collected and the appropriate amount of input tax credits claimed in situations where there are payments between parties in a supply chain which indirectly alter the price paid or received by the parties for the things supplied.
8. This is achieved by creating an adjustment in situations where an entity (the payer), who supplies a thing for re-sale, makes a monetary payment to a third party (the payee) in connection with the payee's acquisition of that thing. This adjustment occurs when the payer does not supply the thing directly to the payee but rather through a supply chain.
9. Division 134 requires a new form of adjustment note for decreasing adjustments above \$75 (the adjustment note threshold).
10. Decreasing adjustments that exceed the adjustment note threshold cannot be attributed until the tax period in which the payer holds a third party adjustment note.
11. The payer is required to give the payee a copy of the third party adjustment note within 28 days of the earlier of a request by the payee or becoming aware of the adjustment. This requirement does not apply to decreasing adjustments less than the adjustment notes threshold.
13. This instrument has been developed to allow taxpayers to substantiate and properly account for adjustments for their third party payments. It describes what should be included in a third party adjustment note. This allows taxpayers to generate suitable adjustment notes and provide them to recipients of third party payments when they are required to do so.

Consultation:

14. The ATO has consulted with Treasury representatives and with Australian industry representatives, including the Federated Chamber of Automotive Industries, and several Australian car manufacturers. In addition, the ATO consulted with the National Tax Liaison Group GST Subcommittee, including representatives of the major peak accounting bodies in Australia.
15. The ATO Revenue Analysis Branch costing concluded that the Legislative Instrument will have a low compliance cost impact, a low implementation impact, and will result in no change in ongoing compliance costs.

Shane Reardon
Deputy Commissioner of Taxation
9 June 2010

Legislative references:

A New Tax System (Goods and Services Tax) Act 1999

Legislative Instruments Act 2003